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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 6543 of 2005

PETITIONER Krishna Prasad Sao, S/o Shri Dhobi Sao, Aged-about 55 years, R/o-C/o Shatruhan Prasad Gupta, BL-9, Holding No.17, Post-Kankinara, Distt.24, Paragana (West Bengal).

Versus

RESPONDENTS

1. State of Chhattisgarh, Through: Secretary, Department of Home Affairs, DKS Bhawan, Raipur (CG).
2. Superintendent of Police, Distt.-Korba (CG).
3. Collector, Korba, Distt.-Korba (CG).
4. Station House Office, Police Station Korab (CG).

Present : Shri Indrasen Sahu, counsel for the petitioner.

Shri Utkarsh Verma, learned Dy. G.A. for the State of Chhattisgarh.

ORAL ORDER
(Passed on 28th August, 2006)

The following oral order of the Court was passed by **S.R. Nayak, CJ.**

The petitioner claims to be a Medical Practitioner in Unani System of Medicine having secured the required qualification from the State Council of Unani Medicine, West Bengal, Calcutta. He is practicing the Unani System of Medicine at Korba and other places. It is complained that the Station House Officer, Police Station Korba, respondent No.4 herein, without any justification and authority, is restraining the petitioner from carrying on his profession. It is further complained that though this

highhanded action of the fourth respondent was brought to the notice of respondents No.2 and 3, they did not take any action. So alleging, the petitioner has sought for the following reliefs :

> "7.1 That this Hon'ble Court may kindly be pleased to restrain the respondent No.4 and their agents that they shall not interfere or would not create any hurdle for the petitioner in performing his profession.
>
> 7.2 That this Hon'ble Court may kindly be pleased to direct the respondent No.3 to allow the representations/ applications of the petitioner and take the appropriate step against the respondent No.4."

Opposing the writ petition, a return is filed on behalf of the respondents. In the return, it is disclosed that the petitioner was prosecuted in Crime Case No.1338/2000 for practicing in Unani System of Medicine on the basis of a fraudulent certificate of registration, but, learned Chief Judicial Magistrate, Korba, vide order dated 21-10-2003 acquitted the petitioner from the charge. It is stated that after the petitioner was acquitted by the criminal law Court, the fourth respondent did not in any way interfere with the petitioner's practice and what is alleged contrary is factually incorrect and false. It is further stated that on the basis of the representation of the petitioner made against the fourth respondent, the Collector, Korba, District Korba, third respondent herein, directed the City Superintendent of Police, Korba, to enquire into the allegation, but, it is stated that despite notice issued by the Superintendent of Police to the petitioner to appear before him to present his case, he did not appear. There is no need for the Court to refer to the other averments made in the writ petition or in the return. Suffice it to state that unless any act of the petitioner in practicing Unani System of

Medicine tantamounts to an offence under any public law statute, it is not for the Police to unnecessarily interfere with the practice of the profession of the petitioner. Of course, that is also the fair stand taken by the respondent in the counter. Therefore, I dispose of the writ petition directing the fourth respondent not to interfere with the practice of the petitioner in Unani System of Medicine without recourse to law and without authority of law. No costs.

Sd/-
Chief Justice
Judge

Pathak